IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

INCOME TAX REFERENCE No. 69 of 1997
With
INCOME TAX REFERENCE No. 116 of 1997

For Approval and Signature:

HONOURABLE MR.JUSTICE R.S.GARG

HONOURABLE MR.JUSTICE M.R. SHAH

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1 Whether Reporters of Local Papers may be allowed to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy of the judgment ?

4 Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?

5 Whether it is to be circulated to the civil judge ?

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COMMISSIONER OF INCOME-TAX - Applicant(s)
Versus
DARUL ULLAIM HASANIA - Respondent(s)

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Appearance :
Mrs. Mauna BHATT for Applicant(s) : 1,
MR B.D. Karia for Respondent(s) : 1,

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CORAM : HONOURABLE MR.JUSTICE R.S.GARG
and
HONOURABLE MR.JUSTICE M.R. SHAH
Date : 30/08/2006

ORAL JUDGMENT

(Per : HONOURABLE MR.JUSTICE R.S.GARG)

The Income Tax Appellate Tribunal, Ahmedabad Bench 'A', has referred the following question to this Court for its opinion in relation to Income Tax Appeal No. 2862 to 2864/Ahd/1988 pertaining to Assessment Year 1982-83 to 1984-85;

> 'Whether on the facts and in the circumstances of the case, the assessee is entitled to exemption u nder sec. 11 of the Act ?'

2. In Income Tax Reference No. 116 of 1997, the Income Tax Appellate Tribunal, Ahmedabad Bench 'C' has referred the following question for opinion of this Court in relation to Income Tax Appeal No. 1363 & 1363A/Ahd/1992 pertaining to Assessment Year 1985-86 and 1986-87;

> 'Whether, the Appellate Tribunal is right in law and on facts in confirming the order passed by the C.I.T. (Appeals) directing the Assessing Officer to grant exemption under section 11 to the assessee trust though the trust is meant for benefit of the particular religious community ?'

It is to be noted that the assessee, Darul Ullam Hasamia is the common assessee in both the matters. The questions posed for our consideration are whether the assessee Trust would be entitled to exemption under Section 11 of the Income Tax Act though the Trust is meant for the benefit of the particular religious community.

3. In I.T.R. No. 234 of 1995, between *C.I.T. Vs. Chandra Charitable Trust*, decided on 31.7.2006 we have decided the identical question after placing our reliance on the judgment of this Court in the matter of Commissioner of Income Tax Vs. Barkate Safiyah Society, 213 ITR 492, and have observed that the Trust can be addressed as a 'Charitable Religious Trust', and, if that be so, Section 13(1)(b) would not be applicable. The facts of the cases are identical. In view of the earlier judgments of this Court and our Judgment in the matter of *Chandra Charitable Trust (supra)*, we decided both the References against the interests of the Revenue. The

References shall stand disposed of accordingly. No costs.

[R.S. Garg, J.]

rmr. [M.R. Shah, J.]